

Remarks

The Examiner has indicated that if the issues with respect to clarity were to be resolved by amendment, and the subject matter of dependent claims 2-4, 6, 9, 11, 12 and 14-16 were to be incorporated into their respective parent claims, then they would be allowable. Accordingly, claims 1, 11 and 13 have been canceled, and claims 2, 4, 6-10, 14 and 16 have been amended in accordance with the Examiner's suggestions. No new matter has been added, and no new material presented that would necessitate an additional search on the part of the Examiner.

Upon entry of this Amendment and Response, claims 2-10, 12 and 14-16 remain pending.

Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 1-16 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that it is unclear what the claim terms "each sampling position" and "one picture element" is intended to refer.

In response, Applicants submit that the claim term "each sampling position" refers to the position of photo detector elements in the photo detector array (See Para. 24, and Fig. 1, feature 126).

Applicants further submit that the claim term "one picture element" refers to the resulting image information for the point on which the measurement light beam is focused (See e.g., Para. 24, and Fig. 1, feature 116).

Accordingly, Applicant respectfully requests withdrawal of this rejection.

Rejections Under 35 U.S.C. 102(b)

Claims 1, 10, and 13 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application 2002/0085209 (Mittleman). Without conceding the correctness of the Examiner's position, but in order to expedite the prosecution of this application, Applicants have canceled claims 1 and 13 without prejudice, and have amended claims 2, 4, 6-10, 14 and 16 in accordance with the Examiner's suggestions.

Accordingly, Applicants respectfully assert that claims 2, 4, 6-10, 14 and 16 as currently amended are novel in view of Mittleman, and respectfully requests withdrawal of the Examiner's rejection under 35 U.S.C. §102(b).

Rejection Under 35 U.S.C. 103(a)

Claims 5, 7 and 8 were rejected under 35 U.S.C. 103(a) as being obvious over Mittleman. Without conceding the correctness of the Examiner's position, but in order to expedite the prosecution of this application, Applicants have amended claims 5, 7 and 8 in accordance with the Examiner's suggestions.

Accordingly, Applicants respectfully assert that claims 5, 7 and 8 as currently amended are novel in view of Mittleman, and respectfully requests withdrawal of the Examiner's rejection under 35 U.S.C. §103(a).

Summary

In view of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims are in condition for allowance, which is respectfully requested.

If there are any questions regarding these remarks, the Examiners are invited and encouraged to contact Applicants' representative at the telephone number provided.

Respectfully submitted,

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